



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY.'S DOCKET: FERRARINI=2

In re Application of:	)	Art Unit: 1761
	)	
Roberto FERRARINI	)	Examiner: C. Sherrer
	)	
Appln. No.: 09/834,622	)	Washington, D.C.
	)	
Date Filed: April 16, 2001	)	Confirmation No. 3909
	)	
For: A METHOD FOR TARTARIC	)	July 31, 2003
STABILIZATION, IN...	)	

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**REPLY TO RESTRICTION REQUIREMENT**

Honorable Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicant is in receipt of Paper No. 4, entirely in the nature of a restriction requirement, dated July 8, 2003.

Applicant has claimed priority from his corresponding application filed in the EPO on April 14, 2000. On June 13, 2001, applicant filed a certified copy of the priority application and again claimed priority. Accordingly, applicant respectfully requests the PTO to acknowledge receipt of applicant's papers filed under §119.

Restriction has been required between what the PTO deems as being two (2) patentably distinct inventions as outlined in the top of page 2 of the Official Action. As applicant must make an election even though the requirement is

traversed, applicant hereby provisionally and respectfully elects Group I directed to the method, presently claims 1-7, with traverse and without prejudice.

First, applicant respectfully submits that the method and apparatus claims parallel one another whereby it should be clear, upon close review, that the apparatus **as claimed** can perform only the method **as claimed**. Another words, the apparatus as claimed **cannot** be used to practice a different process, let alone one which is "materially" different. In this regard, the PTO says that the apparatus can be used to perform electro dialysis on any other fluid. However, to reach this conclusion, the PTO must improperly ignore recitations which appear in the claims, including main apparatus claim 8 which make reference not only to tartaric stabilization but also repeated reference to "the wine".

On the other hand, if the PTO chooses to ignore such recitations in the apparatus (improperly in applicant's view, especially in view of the general rule that all recitations which appear in a claim must be given consideration), then applicant respectfully states that the method and apparatus are both usable in connection with any kind of liquid because the term in claim 1, "in particular for wine", must then be considered as a non-limiting expression. Again, the two sets of

claims parallel one another including both reciting the electro dialysis phase.

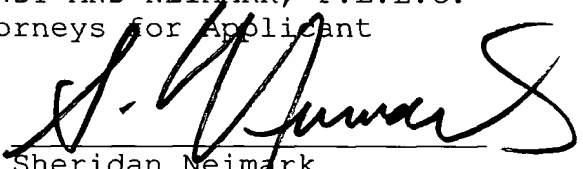
Applicant further respectfully submits that even if restriction were proper, it still should not be required in the present case because of the requirement set forth in the second paragraph of MPEP 803. Thus, §803, second paragraph, requires examination of entire application, even though the requirement is correct, if to do so would not constitute a "serious burden". As pointed out above, the method and apparatus claims are parallel to one another. Conducting a search and examination of the method in a complete fashion would also require a search and examination of the apparatus. Under these conditions, it would not involve a serious burden to examine the apparatus along with the method.

Accordingly, applicant respectfully requests withdrawal of the restriction requirement and examination of all of the claims on the merits. Applicant respectfully awaits the results of a first examination on the merits.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.  
Attorneys for Applicant

By

  
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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: Roberto FERRARINI

Application No.: 09/834,622

Filed: April 16, 2001

For: A METHOD FOR TARTARIC STABILIZATION, IN...

Confirmation No.: 3909

Art Unit: 1761

Examiner: C. SHERRER

Washington, D.C.

Atty.'s Docket: FERRARINI=2

Date: July 31, 2003

THE COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

Sir:

Transmitted herewith is a [XX] REPLY TO RESTRICTION REQUIREMENT in the above-identified application.

[XX] Small entity status of this application under 37 CFR 1.9 and 1.27 has been established by a verified statement previously submitted

[ ] A verified statement to establish small entity status under 37 CFR 1.9 and 1.27 is enclosed.

[XX] No additional fee is required.

The fee has been calculated as shown below:

	(Col. 1)		(Col. 2)	(Col. 3)
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA EQUALS
TOTAL	*	MINUS	** 20	0
INDEP.	*	MINUS	*** 3	0
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM				

SMALL ENTITY	
RATE	ADDITIONAL FEE
x 9	\$
x 42	\$
+ 140	\$
ADDITIONAL FEE TOTAL	
	\$

OTHER THAN SMALL ENTITY	
RATE	ADDITIONAL FEE
x 18	\$
x 84	\$
+ 280	\$
TOTAL	
	\$

OR

OR

- \* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.
- \*\* If the "Highest Number Previously Paid for" IN THIS SPACE is less than 20, write "20" in this space.
- \*\*\* If the "Highest Number Previously Paid for" IN THIS SPACE is less than 3, write "3" in this space.

The "Highest Number Previously Paid For" (total or independent) is the highest number found from the equivalent box in Col. 1 of a prior amendment of the number of claims originally filed.

[XX] Conditional Petition for Extension of Time

If any extension of time for a response is required, applicant requests that this be considered a petition therefor.

[ ] It is hereby petitioned for an extension of time in accordance with 37 CFR 1.136(a). The appropriate fee required by 37 CFR 1.17 is calculated as shown below:

Small Entity  
Response Filed Within

[ ] First - \$ 55.00

[ ] Second - \$ 205.00

[ ] Third - \$ 465.00

[ ] Fourth - \$ 725.00

Month After Time Period Set

Other Than Small Entity  
Response Filed Within

[ ] First - \$ 110.00

[ ] Second - \$ 410.00

[ ] Third - \$ 930.00

[ ] Fourth - \$ 1450.00

Month After Time Period Set

[ ] Less fees (\$ ) already paid for month(s) extension of time on .

[ ] Please charge my Deposit Account No. 02-4035 in the amount of \$ .

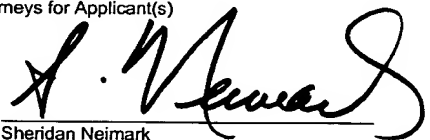
[ ] Credit Card Payment Form, PTO-2038, is attached, authorizing payment in the amount of \$ .

[ ] A check in the amount of \$ is attached (check no. ).

[XX] The Commissioner is hereby authorized and requested to charge any additional fees which may be required in connection with this application or credit any overpayment to Deposit Account No. 02-4035. This authorization and request is not limited to payment of all fees associated with this communication, including any Extension of Time fee, not covered by check or specific authorization, but is also intended to include all fees for the presentation of extra claims under 37 CFR §1.16 and all patent processing fees under 37 CFR §1.17 throughout the prosecution of the case. This blanket authorization does not include patent issue fees under 37 CFR §1.18.

BROWDY AND NEIMARK

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